



**Lewis and Clark County
Community Development and Planning**

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DATE: May 24, 2016

TO: Lewis and Clark County Commissioners and Helena-Lewis and Clark Consolidated Planning Board

FROM: George Thebarger AICP, Director of Community Development & Planning

SUBJECT: **Proposed Amendments to the December 19, 2013 Subdivision Regulations**

The Community Development and Planning Staff (Staff) have prepared amendments to the December 19, 2013 Subdivision Regulations for your consideration. Pursuant to Chapter II. C. of the Subdivision Regulations, the Lewis and Clark County Commissioners seek a recommendation from the Helena-Lewis and Clark Consolidated Planning Board. The proposed amendments that contain explanatory notes are attached as Exhibit A.

The purposes of the proposed amendments are to:

1. Remove redundant or inconsistent regulations to reconcile the Subdivision Regulations with the Public Works Manual that was adopted by the County Commissioners on November 25, 2014; and,
2. Consolidate the separate provisions for reviews of major, minor, and subsequent minor subdivisions to eliminate 24 pages of redundant text.
3. Address language and policy questions that have risen since adoption of the December 19, 2013 Subdivision Regulations.

The proposed amendments are presented with a page number, chapter, and section to facilitate review. Amendments to the Subdivision Regulations proposed by Staff are underlined text, while proposed deletions are indicated with ~~striketrough text~~.

Staff recommends that the proposed amendments be reviewed in consultation with the current December 19, 2013 Subdivision Regulations which are available online at <http://www.lccountymt.gov/cdp/subdivision-regulation.html>.

The Helena/Lewis and Clark County Consolidated Planning Board will hold a public hearing at **6:00 p.m. on Tuesday, June 21, 2016**, in Room 330 on the third floor of the City-County Building, 316 North Park Avenue, Helena, Montana regarding their

recommendation for the County Commissioners to adopt amendments to the Lewis and Clark County Subdivision Regulations.

The public may submit written comments at or before the hearing or oral comments during the hearing. Written public comments can be mailed to the Community Development and Planning Department, Room 230, 316 North Park Avenue, Helena, MT 59623 or faxed to (406) 447-8398. Public comments can also be e-mailed to: subregs@lccountymt.gov.

For further information, please contact Greg McNally at the Community Development and Planning Department, Room 230, 316 North Park Avenue, Helena, Montana or by telephone at (406) 447-8374.

EXHIBIT A:

Proposed Amendments to the December 19, 2013 Lewis and Clark County Subdivision Regulations

The proposed amendments are presented with a page number, chapter, and section to facilitate review. Amendments to the Subdivision Regulations proposed by Community Development and Planning Staff (Staff) are underlined text, while proposed deletions are indicated with ~~striketrough text~~. Staff has added explanatory notes after most proposed changes indicated by ***[bold italic text in brackets]***. Staff recommends that the proposed amendments be reviewed in consultation with the current December 19, 2013 Subdivision Regulations which are available online at <http://www.lccountymt.gov/cdp/subdivision-regulation.html>.

Please contact Greg McNally with questions at 447-8343 or gmcnally@lccountymt.gov

CHAPTER II: ADMINISTRATIVE PROVISIONS

Page II-5, Lewis and Clark County 2013 Subdivision Regulations

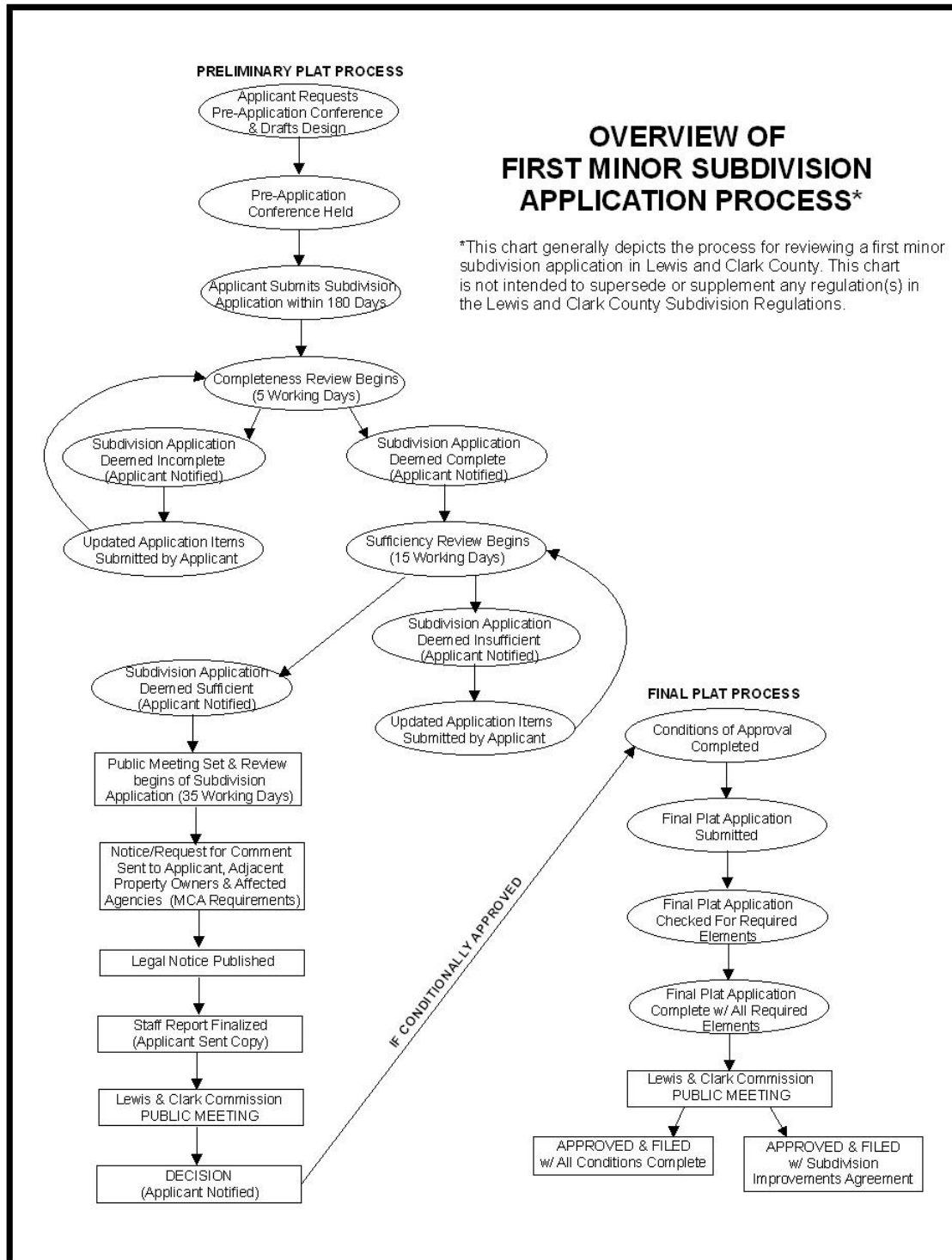
E. Restrictive Covenants

The County may not approve a subdivision proposal that violates restrictive covenants or deed restrictions governing use of the affected property, unless the covenants are amended prior to or as part of the subdivision review ~~approval~~ process. Any change to restrictive covenants must follow the procedures outlined in the specific covenants in question. This provision pertains to both covenants put in place by the County, as well as those held by the private landowners. The property owner is responsible for supplying private covenants to the County with the subdivision application.

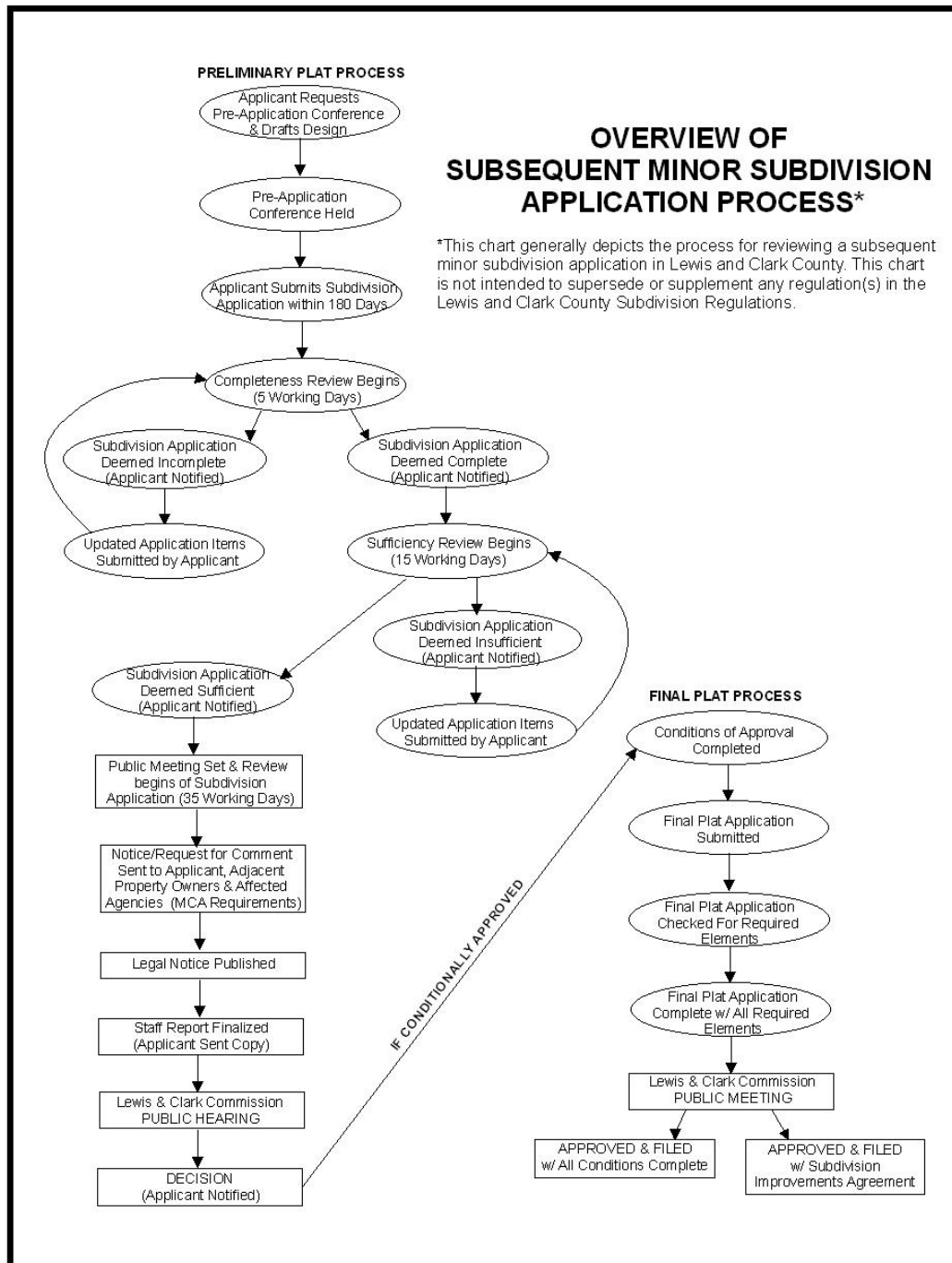
[STAFF NOTES ON PROPOSED CHANGES: Wording change suggested by County Legal to clarify the timing of proposed amendments to covenants.]

CHAPTER III: PROCEDURES FOR MAJOR SUBDIVISIONS

Overview of First Minor Subdivision Review Process



Overview of Subsequent Minor Subdivision Review Process



[STAFF NOTES ON PROPOSED CHANGES: The Subdivision Regulations currently repeat the application review process 3 times, adding 25 pages to the Regulations. This draft includes the distinctive provisions of the 3 subdivision types (major, minor, & subsequent minors), but it documents the consistent process steps just once. The title of this chapter changes and the process flow charts or minor subdivisions are moved from Chapter IV, which will be deleted.]

A. Introduction

1. Major Subdivisions

Major subdivisions are considered to be those divisions of property that include six or more parcels, and that otherwise meet the definitions in Title 76-Chapter 3, MCA.

2. Minor Subdivisions

If the tract of record proposed to be subdivided has not been subdivided or created by a subdivision or has not resulted from a tract of record that has more than five parcels created from that tract of record under Sections 76-3-201 or 76-3-207, MCA since July 1, 1973, then the proposed subdivision is a first minor subdivision from a tract of record.

The following requirements shall not apply to first minor subdivisions:

- a. the completion of an environmental assessment;
- b. Parts II, and III of the Montana Department of Environmental Quality/Local Government Joint Application Form;
- c. a public hearing; and
- d. review of the subdivision application for the impact on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat and public health and safety, provided the subdivision is proposed in a jurisdictional area that has adopted zoning regulations that address those impacts.

3. Subsequent Minor Subdivisions

As provided in Section 76-3-609 (3) and (4), MCA, any minor subdivision that is not a first minor subdivision from a tract of record as provided in subsection 2 above is a subsequent minor subdivision and must meet all review requirements for a major subdivision except for review by the Planning Board and the time frame for review and decision.

[STAFF NOTES ON PROPOSED CHANGES: The Subdivision Regulations currently repeat the application review process 3 times, adding 25 pages to the Regulations. This draft includes the distinctive provisions of the 3 subdivision types (major, minor, & subsequent minors), but it documents the consistent process steps just once. A confusing phrase about lots not provided with legal and physical access has been removed.]

4. Review Criteria for Subdivisions

- a. All subdivisions must be designed by the applicant to avoid or mitigate any significant adverse impacts on:

- agriculture; and
 - agricultural water users; ~~or agricultural water;~~
 - local services and provision of local services;
 - natural environment;
 - wildlife;
 - wildlife habitat; and
 - public health, safety and general welfare.
- b. All subdivision applications must also be in compliance with:
- survey requirements of the Montana Subdivision and Platting Act;
 - these local Subdivision Regulations; and,
 - the review procedures contained in these Subdivision Regulations.
- c. All subdivisions must provide easements within and to the subdivision for the location and installation of any planned utilities.
- d. All subdivisions must provide legal and physical access to each parcel within the subdivision with notation of that access on the plat and any instrument of transfer concerning each parcel.

[STAFF NOTES ON PROPOSED CHANGES: Wording changes are proposed to make this subsection consistent with the Montana Subdivision & Platting Act.

B. Subdivision Application Review Process for Major Subdivision

1. Pre-application Procedures

The applicant (who may be the subdivider or, with the subdivider's written permission, the subdivider's agent) shall contact the ~~County Permit Coordinator~~ Community Development and Planning Department to schedule a meeting with County planning and Environmental Health staff. The pre-application meeting shall take place prior to submitting the required subdivision application. The pre-application conference shall take place not more than thirty (30) calendar days from the date that the ~~County Permit Coordinator~~ Community Development and Planning Department receives a complete submittal package from the Applicant. This meeting is required and must be held not more than one hundred eighty (180) calendar days prior to submittal of a subdivision application.

[STAFF NOTES ON PROPOSED CHANGES: Additional wording changes needed to consolidate the review process for all three types of subdivisions. Change in point of contact needed due to change in a staff position. Corrects inconsistencies in formatting.]

2. Subdivision Application Submissions and Distribution

The applicant shall submit for review and approval a subdivision application and preliminary plat of the proposed subdivision that conforms to the requirements of these regulations. The preliminary plat and subdivision application shall be prepared in compliance with the requirements listed in Appendix B, and conform to design and improvement of these regulations, including the ~~road and fire standards in Appendix J and K and the road standards contained in the Lewis and Clark County Public Works Manual.~~

[STAFF NOTES ON PROPOSED CHANGES: All standards for the design, construction, and testing of roads are being removed from the Subdivision Regulations as they are now contained in the County Public Works Manual.]

~~The applicant shall submit the following application information to the planning staff as one submittal:~~

- ~~a. Parts I, II, and III of the Montana Department of Environmental Quality/Local Government Joint Application Form;~~
- ~~b. The required review fee;~~
- ~~c. Five copies of the preliminary plat or site plan and related supplements;~~
- ~~d. All supplements required by Appendix B;~~
- ~~e. A property title report prepared by a title company within six months of the date of subdivision plat application submittal; and~~
- ~~f. The preliminary plat or site plan must conform to the design and improvement standards set forth in Chapter XI of these regulations. If any design features or improvements do not conform to these standards, the applicant shall submit a written request for variances with the subdivision application, pursuant to the procedures in these regulations.~~

[STAFF NOTES ON PROPOSED CHANGES: These requirements are spelled out more fully in Appendix B and including this short list here could lead to confusion.]

The planning staff will review the application materials and determine the completeness and sufficiency of the application. The planning staff has five (5) working days to determine whether the application contains all of the listed elements found in Appendix B of these regulations is complete and shall give written notice to the applicant or, with the applicant's written permission, the applicant's agent of the planning staff's determination of completeness. If elements are missing from the application, planning staff shall identify those elements in the written notification. The applicant must provide all missing elements before the completeness review process will restart from the beginning.

Within fifteen (15) working days after the applicant has been notified in writing that the application contains all the required elements, planning staff shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow review of the proposed subdivision, and shall give written notification to the applicant or, with the applicant's written permission, the applicant's agent of the determination by staff. If planning staff determines that information in the application is not adequate for review of the proposed subdivision, the insufficiencies of the application shall be identified in the written notification. The applicant must provide all necessary information required in the sufficiency notification letter before the sufficiency review process will restart from the beginning.

A sixty (60) working day review period for major subdivision applications with forty-nine (49) or less lots commences on the first working day after planning staff determines that the subdivision application is complete and sufficient. An eighty (80) working day review period for major subdivision applications with fifty (50) or more lots commences on the first working day after planning staff determines that the subdivision application is complete and sufficient.

A thirty-five (35) working day review period for minor subdivisions and subsequent minor subdivisions commences on the first working day after planning staff determines that the subdivision application is complete and sufficient.

[STAFF NOTES ON PROPOSED CHANGES: This provision is being moved from the separate chapter on minor subdivision procedures that will be repealed to consolidate the review process provisions. Additional formatting changes for consistency. Clarification of timing for completeness & sufficiency reviews.]

The review period may be extended or suspended based on the applicant's written concurrence or request. The applicant may verbally concur or request a an extension or suspension before the governing body during a public meeting. A An extension or suspension of the review period shall not exceed one (1) year from the date of request or concurrence.

[STAFF NOTES ON PROPOSED CHANGES: The MSPA provides for extensions of reviews as well as suspensions. The difference(s) between the two are not clear. One logical distinction is that during an extension the review process continues.]

Review of complete and sufficient applications by ~~planning staff and~~ other organizations shall not delay the governing body's action beyond the ~~60 or 80~~ working day limits for major, minor, and subsequent minor subdivisions. Any review comments shall be made available to the applicant. Any review comments shall be made available to any member of the public upon request. If, during the review of the application, the planning staff contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, planning staff shall notify the applicant of the contact and the timeframe for response.

[STAFF NOTES ON PROPOSED CHANGES: The provision clarifies that subdivision reviews can't be delayed for reviews by outside organizations. Staff reviews are addressed elsewhere. Additional wording changes needed to consolidate the review process for all three types of subdivisions.]

The planning staff will review the application and any comments received from other organizations and the public. Findings and the rationale behind them shall be incorporated into a staff report with recommendations draft conditions of approval needed to mitigate impacts on review criteria and/or to comply with subdivision requirements, and identification of any impacts on the review criteria that cannot be mitigated and warrant denial of the subdivision application to the Planning Board and the governing body. Copies of the staff report will be sent to the applicant, to the Planning Board for major subdivisions, and to the governing body.

[STAFF NOTES ON PROPOSED CHANGES: Wording changes clarify the role of staff in preparing staff reports and providing that information to parties to the process. Staff reports are not recommendations for approval, approval with conditions, or denial of subdivisions. Under the Montana Subdivision and Platting Act, authority and responsibility for decisions on subdivisions are vested exclusively with the County Commissioners, while authority and responsibility for recommendations for approval or denial are vested with the Planning Board. Staff simply provides necessary information to the elected and appointed officials in exercising those duties. Due to the statutory time constraints for subdivision reviews, staff provides draft findings of fact and conditions of approval for consideration by the Planning Board and County Commissioners in advance of the governing body deliberations. This information positions the Planning Board and Commissioners with information they need to come to conclusions on whether to approve or deny a subdivision, and whether anticipated impacts on resources or services can be mitigated through approval conditions as stipulated in the Montana Subdivision and Platting Act. A fundamental action of the governing body is to review those draft findings and approval conditions to determine whether they are adequate to support their decision and to make necessary changes to them based on public testimony and their own deliberations.]

Page III-7, Lewis and Clark County 2013 Subdivision Regulations

4. ~~Exemptions from Environmental Assessment Reserved~~

~~The following major subdivisions shall not be required to submit an environmental assessment:~~

- ~~1. A subdivision that satisfies all of the following criteria (76-3-616(2), MCA):~~
 - ~~a. The proposed subdivision is entirely within an area inside or adjacent to an incorporated city or town where the governing body has adopted a growth policy that includes the provisions of 76-1-601(4)(c), MCA;~~
 - ~~b. The proposed subdivision is entirely within an area subject to zoning adopted pursuant to 76-2-203 or 76-2-304, MCA that avoids, significantly reduces, or mitigates adverse impacts identified in a growth policy that includes the provisions of 76-1-601(4)(c), MCA; and~~

- c. ~~The subdivision proposal includes a description, using maps and text, of future public facilities and services that are necessary to efficiently serve the projected development.~~

[STAFF NOTES ON PROPOSED CHANGES: Steps needed to qualify for this exemption have never been completed. Although the 2015 Helena Valley Area Plan contains recommendations to move in this growth management direction, until an infrastructure plan for the Urban Growth Area is completed and zoning is adopted that mitigates impacts on resources and services, this provision has no effect on subdivisions. At the point that the required programs are in place, a new provision can be inserted in this reserved section.]

Page III-8, Lewis and Clark County 2013 Subdivision Regulations

5. Amended Subdivision Applications

If the original application is not withdrawn, review of the original application will continue and a new ~~60 or 80~~ working day review period will commence.

If the change is deemed not to be substantial, a new ~~60 or 80~~ working day review period commences on the first working day after the Planning Department notifies the Applicant in writing of that determination. By requesting to amend an application or preliminary plat, the applicant consents to the restarting of the ~~60 or 80~~ working day review period from the beginning.

If the governing body determines the changes are not substantial, a new ~~60 or 80~~ working day review period commences on the first working day after the governing body makes their decision. By requesting to amend an application or preliminary plat, the applicant consents to the restarting of the ~~60 or 80~~ working day period from the beginning.

[STAFF NOTES ON PROPOSED CHANGES: Additional wording changes needed to consolidate the review process for all three types of subdivisions. Clarification of the timing of reviews.]

Page III-9, Lewis and Clark County 2013 Subdivision Regulations

6. Planning Board Public Hearing for Major Subdivisions

For major subdivisions, after planning staff accepts a subdivision application as complete and sufficient, the Planning Board shall hold a public hearing on the application. ~~When a proposed subdivision is proposed to be annexed into a municipality, the Planning Board may hold joint hearings with the governing body of the municipality on the subdivision application and annexation.~~

Notice of the time and date of the hearing shall be given by publication in a newspaper of general circulation in the county not less than fifteen (15) calendar days prior to the date of the hearing. The applicant and each property owner of record immediately

adjoining the land included in a plat shall be notified of the hearing by certified or registered mail, not less than fifteen (15) calendar days prior to the date of the hearing. For subdivisions that involve non-residential uses, all property owners within five hundred (500) feet of the project property boundary shall be sent a notice by ~~certified or registered~~ first class mail. The planning staff shall post notice of the hearing at a conspicuous place on the boundary of the proposed subdivision.

The Planning Board shall establish rules for conducting public hearings on subdivision applications, which may include limiting the length of the public hearing or the length of individual public and applicant testimony during the hearing. Submission of written comments by agencies and individuals prior to the Planning Board hearing is encouraged. This recommendation must be submitted to the governing body in writing not later than ten (10) working days after the public hearing. A copy of this recommendation shall also be ~~mailed~~ provided to the applicant when it is submitted to the governing body.

[STAFF NOTES ON PROPOSED CHANGES: Additional wording changes needed to consolidate the review process for all three types of subdivisions. Subdivisions proposed for annexation can combine hearings on subdivision and annexation, not hold joint meetings of the Planning Board and City or County Commission. Proposed change from certified mail to first class mail. Planning Board transmittals can be provided to the applicant by other, more timely means than mailing.]

7. Planning Board Recommendation for Subdivision Application Approval or Denial

For major subdivisions, the Planning Board shall:

- a. Consider the following:
- b. Within ten (10) working days after the public hearing, submit in writing, to the governing body the following:
 - 1) its findings regarding the items under Section 7a. above;
 - 2) recommended findings of fact which consider the review criteria pursuant to Section 76-3-608, MCA; and
 - 3) a recommendation for approval, conditional approval, or denial of the plat. A copy of this recommendation, findings of facts and conclusions of law shall also be ~~mailed~~ provided to the applicant when it is submitted to the governing body. If the Planning Board recommends denial of a subdivision, the recommendation shall include the reasons for denial, the findings of facts and conclusions of law.

[STAFF NOTES ON PROPOSED CHANGES: Additional wording changes needed to consolidate the review process for all three types of subdivisions. Planning

Board transmittals can be provided to the applicant by other, more timely means than mailing.]

Page III-11 to 12, Lewis and Clark County 2013 Subdivision Regulations

8. ~~This Section Intentionally Left Blank~~

8. 9. Subsequent Public Hearings on New Evidence Provided After the Planning Board Hearing

~~If the governing body decides to have the Planning Board hold a subsequent public hearing, it must be held within 45 calendar days of the governing body's determination to schedule the public hearing. If the governing body determines new information was submitted, it must remand the subdivision back to the Planning Board to hold a subsequent public hearing. The Planning Board must hold the hearing within forty-five (45) calendar days of the governing body's determination that new information was submitted.~~ Only new information or analysis of information shall be considered at the subsequent public hearing. The governing body may require the applicant pay additional fees to cover the costs associated with providing notice of the subsequent public hearing.

The governing body shall provide notice of the subsequent hearing as follows:

1. Notice of the time and date of the subsequent hearing shall be published in the newspaper not less than fifteen (15) calendar days prior to the date of the subsequent hearing.
2. At least fifteen (15) calendar days prior to the date of the subsequent hearing, notice of the subsequent hearing shall be given by certified or registered mail to the applicant, and each adjoining property owners. For subdivisions that involve non-residential uses, all property owners within five hundred (500 ft.) feet of the project property boundary shall be sent a notice by ~~certified or registered~~ first class mail.
3. The governing body may require the notice be posted at a conspicuous place on the site of the proposed subdivision application.

[STAFF NOTES ON PROPOSED CHANGES: Changes proposed for consistency of formatting. Proposed change from certified mail to first class mail]

9. Governing Body Meeting on a Minor Subdivision Application

The governing body shall hold a public meeting on a proposed minor subdivision. Notice of the time, date, and location of the meeting shall be given not less than fifteen (15) calendar days prior to the date of the meeting by publication in a newspaper of general circulation in the county and by first class mail to the applicant and each property owner of record immediately adjoining the land included in the subdivision application. The planning staff shall post notice of the public meeting on the boundary of the proposed subdivision. For subdivisions that involve non-residential uses, all property owners

within five hundred (500 ft.) feet of the project property boundary shall be sent a notice by first class mail. The planning staff shall post notice of the public meeting on the boundary of the proposed subdivision.

[STAFF NOTES ON PROPOSED CHANGES: Additional wording changes needed to consolidate the review process for all three types of subdivisions. This section is being moved from Section IV that will be repealed. Mailed notices are not required by statute for first minor subdivision. Proposed change to send notices by first class mail rather than certified or registered mail.]

10. Subsequent Public Meetings on New Evidence Provided after the Public Meeting on a Minor Subdivision.

In the event that the governing body receives written documentation or oral comments after the public meeting, the governing body shall determine whether public comments or documents constitute:

- (a) information or analysis of information that was presented at a public meeting that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment; or
- (b) new information regarding a subdivision application that has never been submitted as evidence or considered by either the governing body or its agent or agency at a public meeting during which the subdivision application was considered.

If the governing body determines that the public comments or documents constitute new information, the governing body may:

- (a) approve, conditionally approve, or deny the proposed subdivision application without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible; or
- (b) schedule or direct its agent or agency to schedule an additional public meeting for consideration of only the new information that may have an impact on the findings and conclusions that the governing body will rely upon in making its decision on the proposed subdivision.

If the governing body decides to hold a public meeting for consideration of the new information, it must be held within fifteen (15) calendar days of the governing body's determination to schedule the public meeting. Only the new information or analysis of the new information shall be considered at the public meeting.

The governing body shall provide notice of the public meeting as follows:

1. The governing body shall give notice of the specific time and place of the additional public meeting on the public record at the time it makes its determination that new information has been submitted.

2. The agenda for the public meeting shall be posted in accordance with Lewis and Clark County's "Resolution to Establish Regular Meeting Dates of the Lewis and Clark County Commission and to Describe Procedures for Public Participation."

If an additional public meeting is held, the working day review period is suspended as of the date of the governing body's decision to hold the additional meeting. The working day review period resumes at the governing body's next scheduled public meeting for which proper notice can be provided. The governing body may not consider any information regarding the subdivision application that is presented after the meeting when making its decision to approve, conditionally approve, or deny the proposed subdivision application.

[STAFF NOTES ON PROPOSED CHANGES: Additional wording changes needed to consolidate the review process for all three types of subdivisions. This section is being moved from Section IV that will be repealed.]

11. Governing Body Hearing on Subsequent Minor Subdivision Application

The governing body shall hold a public hearing on the proposed subsequent minor subdivision. Notice of the time, date and location of the public hearing shall be given not less than fifteen (15) calendar days prior to the date of the hearing by publication in a newspaper of general circulation in the county and by certified or registered mail to the applicant and each property owner of record immediately adjoining the land included in the subdivision application. For subdivisions that involve non-residential uses, all property owners within five hundred (500 ft.) feet of the project property boundary shall be sent a notice by first class mail. The planning staff shall post notice of the public hearing on the boundary of the proposed subdivision.

[STAFF NOTES ON PROPOSED CHANGES: Additional wording changes needed to consolidate the review process for all three types of subdivisions. This section is being moved from Section IV that will be repealed.]

12. Subsequent Public Hearings on New Evidence Provided after the Public Hearing on a Subsequent Minor Subdivision

In the event that the governing body receives written documentation or oral comments after the public hearing, the governing body shall determine whether public comments or documents presented to the governing body at a public meeting constitute:

- (a) information or analysis of information that was presented at a public hearing that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment; or
- (b) new information regarding a subdivision application that has never been submitted as evidence or considered by either the governing body or its agent or agency at a public meeting during which the subdivision

application was considered.

If the governing body determines that the public comments or documents constitute new evidence, the governing body may:

- (a) approve, conditionally approve, or deny the proposed subdivision application without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible; or
- (b) schedule or direct its agent or agency to schedule a public hearing for consideration of only the new information that may have an impact on the findings and conclusions that the governing body will rely upon in making its decision on the proposed subdivision.

If the governing body decides to hold a public hearing, it must be held within forty-five (45) calendar days of the governing body's determination to schedule the public hearing. Only new information or analysis of information shall be considered at the public hearing. The governing body may require the applicant pay additional fees to cover the costs associated with providing notice of the subsequent public hearing.

The governing body shall provide notice of the public hearing as follows:

- 1. Notice of the time and date of the hearing shall be published in the newspaper not less than fifteen (15) calendar days prior to the date of the public hearing;
- 2. At least fifteen (15) calendar days prior to the date of the public hearing, notice of the hearing shall be given by certified mail to the applicant, and each adjoining property owners;
- 3. The governing body may require the notice be posted at a conspicuous place on the site of the proposed subdivision application.

If the public hearing is held, the working day review period is suspended as of the date of the governing body's decision to hold a hearing. The working day review period resumes at the governing body's next scheduled public hearing for which proper notice for the public hearing on the subdivision application can be provided. The governing body may not consider any information regarding the subdivision application that is presented after the hearing when making its decision to approve, conditionally approve, or deny the proposed subdivision.

[STAFF NOTES ON PROPOSED CHANGES: Additional wording changes needed to consolidate the review process for all three types of subdivisions. This section is being moved from Section IV that will be repealed.]

13. 40. Governing Body Action on Subdivision Application

The proposed subdivision will be considered at a regularly scheduled meeting of the governing body. Notice of the time, date and location of the public meeting shall be given not less than fifteen (15) calendar days prior to the date of the meeting by publication in a newspaper of general circulation in the county and by certified or registered mail to the applicant and each property owner of record immediately adjoining the land included in the subdivision application. The planning staff shall post notice of the public meeting on the boundary of the proposed subdivision.

The basis for the governing body's decision to approve, conditionally approve, or deny a subdivision shall be whether the development of the subdivision would meet the requirements of the Montana Subdivision and Platting Act, and these local subdivision regulations, based on the following:

- a. relevant evidence relating to the public health, safety, and general welfare, including the subdivision application, preliminary plat, and supplements;
- b. environmental assessment (for subsequent minor and major subdivisions);
- c. Planning Board recommendation (for major subdivisions);
- d. the statement of probable impacts and mitigation;
- e. an officially adopted growth policy;
- f. comments, evidence and discussions at the public hearing(s) or public meeting(s), staff report, recommendations, and related information; and
- g. any additional information authorized by law.

If the governing body fails to approve, conditionally approve, or deny the subdivision application within the ~~60 or 80~~ working day review period under section III.B.2, the governing body shall pay to the subdivider a financial penalty of fifty (\$50) dollars per lot per month or a pro rata portion of a month, not to exceed the total amount of the subdivision review fee collected by the governing body for the subdivision application, until the governing body approves, conditionally approves, or denies the subdivision application. The financial penalty does not apply if the review period is extended or suspended.

If the governing body approves, conditionally approves or denies the subdivision application, it shall inform the applicant of the decision in writing within thirty (30) working days following the decision. The letter shall include a copy of the plat and shall state the reason(s) for denial or enumerating the conditions of approval. The written decision shall include:

The governing body shall collect public comments regarding water and sanitation information and shall make any comments submitted, or a summary of the comments submitted, available to the applicant within thirty (30) calendar days after conditional approval or approval of the subdivision application and preliminary plat. The applicant

shall as part of the applicant's application for sanitation approval, forward the comments or the summary provided by the governing body to the reviewing authority of the application.

[STAFF NOTES ON PROPOSED CHANGES: Additional wording changes needed to consolidate the review process for all three types of subdivisions. Wording changes for formatting consistency. Numbering change to section.]

Page III-16, Lewis and Clark County 2013 Subdivision Regulations

14. 14. Subdivision Application Approval Period

Upon approving or conditionally approving a subdivision application, the governing body shall provide the applicant with a dated and signed statement of approval. This approval shall be in force for not more than three (3) calendar years or less than one (1) calendar year. At the end of this period the governing body may, at the request of the applicant, extend its approval for a mutually agreed-upon period of time. Any mutually agreed upon extension must be in writing and dated and signed by the members of the governing body and the applicant or applicant's agent. Except as provided in Section 76-3-507, MCA, after the subdivision application and preliminary plat is approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval providing said approval is obtained within the original or extended approval period as provided in Section 76-3-610(1), MCA. Approval of the ~~major~~ subdivision application and preliminary plat does not constitute approval of the ~~major~~ subdivision final plat.

[STAFF NOTES ON PROPOSED CHANGES: Wording changes for formatting consistency. Numbering change to section.]

15. 12. Process for Modifying the Conditions of Approval, Approval Statement, or Preliminary Plat for a Subdivision Application

b. Action Item Two

2) The subdivider must submit the appropriate fee to the Planning Department and additional information as required by the BOCC. Once the application fee is paid and, if applicable, the additional information is submitted, public notice must be given in accordance with Chapter III.B.6 (major subdivisions), Chapter III.B.9 (minor subdivisions), or Chapter III.B.11 (subsequent minor subdivisions) and a public hearing (for major and subsequent minor subdivisions) or public meeting (for minor subdivisions) before the BOCC on the matter will be ~~scheduled~~ held. In addition, landowners adjacent to the subject subdivision will be notified via the mail of the proposed modification(s) and about the public hearing.

4) The BOCC (not the Planning Board) holds a public hearing or public meeting on the request per subsection 2) above. At that hearing, the staff report ~~and recommendations~~ will be presented and the subdivider will have the opportunity

to make a presentation. The public will have an opportunity to provide testimony or comment on the proposed modification.

5) After the public hearing or public meeting the BOCC shall make a final decision.

[STAFF NOTES ON PROPOSED CHANGES: Additional wording needed to consolidate provisions for review of subdivisions into one section. Eliminates expectation that staff will make recommendations for or against requested modifications per discussion in notes on Section III.2 on Page 8.]

Page III-18, Lewis and Clark County 2013 Subdivision Regulations

16. 13. Construction Timing

[STAFF NOTES ON PROPOSED CHANGES: Numbering change to section.]

17. 14. Inspections and Certification

[STAFF NOTES ON PROPOSED CHANGES: Numbering change to section.]

Page III-19, Lewis and Clark County 2013 Subdivision Regulations

18. 15. Transfers of Title

[STAFF NOTES ON PROPOSED CHANGES: Numbering change to section.]

C. Final Plat Review Process

2. Final Plat Application

An application for final plat review (available at the County Planning Department), together with three (3) 11" x 17" paper copies of the final plat and supplements, shall be submitted to the Planning Department ~~at least twenty (20) calendar days before a regularly scheduled meeting of the governing body.~~ A final plat must be submitted before the expiration of the subdivision application approval period, or extension thereof. No final plat application shall be accepted, processed nor any action on a final plat be scheduled until a complete application and fee, and copies of the final plat have been received. A final plat application will not be considered complete until all conditions of preliminary approval have been satisfied.

The planning staff will review the final plat application materials and determine the completeness and sufficiency of the application. The planning staff has five (5) working days to determine whether the application contains all of the listed information found in Appendix D of these regulations and information required to verify compliance with the preliminary approval conditions and shall give written notice to the applicant or, with the applicant's written permission, the applicant's agent of the planning staff's determination

of completeness. If information is missing from the application, planning staff shall identify the needed information in the written notification. The applicant must provide all missing information before the completeness review process will restart from the beginning.

Within fifteen (15) working days after the applicant has been notified in writing that the final plat application contains all the required elements, planning staff shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow review of the final plat, and shall give written notification to the applicant or, with the applicant's written permission, the applicant's agent of the determination by staff. If planning staff determines that information in the application is not adequate for review of the final plat, the insufficiencies of the application shall be identified in the written notification. The applicant must provide all insufficient information before the sufficiency review process will restart from the beginning.

A thirty-five (35) working day review period for final plat reviews commences on the first working day after planning staff determines that the final plat application is complete and sufficient.

[STAFF NOTES ON PROPOSED CHANGES: The proposed amendments institute a completeness and sufficiency review period for final plat applications to parallel the procedures for review of preliminary plat applications. This will ensure that submitted final plat applications are ready for review and that staff processes them in a timely manner.]

Page III-21 to 22, Lewis and Clark County 2013 Subdivision Regulations

4. Guarantee of Public Improvements

As a condition of approval of the final plat, the subdivider shall have installed all required improvements, or shall enter into a subdivision improvements agreement guaranteeing the construction and installation of any remaining all such improvements that are not needed for public safety and occupancy of buildings (e.g., final paving, chip sealing, erosion controls). No final plat shall be approved, and no construction or placement of structures on the lots shall occur until engineered plans have been approved for the following improvements related to public health and safety, and general welfare: roads except for paving, multi-user and public water and wastewater treatment systems, other utilities, street identification signs, traffic control signs, address plaques, and fire-fighting facilities, and these improvements have been installed in accordance to the approved plans. Methods for guaranteeing public improvements and the procedures and requirements for securing the guarantees are provided in Appendix E of these regulations.

[STAFF NOTES ON PROPOSED CHANGES: Proposed amendments establish the Commission's policy that performance guarantees for public improvements cannot include health and safety improvements needed for construction and occupancy of buildings on lots in a subdivision. The provision that prohibits construction of buildings on the lots is ineffective because the County doesn't issue building permits and has no way to enforce this provision.]

5. Final Plat Approval or Denial

The governing body shall examine the ~~major~~ subdivision final plat and shall approve or deny the plat within thirty-five (35) working days after the applicant has submitted a complete and sufficient final plat application and has demonstratively met all of the conditions of approval set forth in the preliminary subdivision approval.

The ~~major~~ subdivision final plat shall conform in all major respects to the subdivision application and preliminary plat previously reviewed and approved by the governing body, and shall incorporate all required modifications required to comply with preliminary approval conditions. ~~The governing body may approve a final plat which, in their determination, has been modified to reflect improvements in design, or changes which have occurred in the natural surroundings and environment since the time of subdivision application review and approval.~~

The governing body shall approve a ~~major~~ subdivision final plat if it conforms to the approved subdivision application and preliminary plat, and if the applicant has met all required modifications or conditions, and met or exceeded all standards and requirements of these regulations. Approval shall be certified by the governing body on the face of the final plat.

If the ~~major~~ subdivision final plat is denied, the reasons for denial shall be stated in the records of the governing body, and a copy shall be sent to the applicant. The governing body shall return the opaque mylar copy, the reproducible copy, and digital, when available, to the applicant within ten (10) working days of the action. The applicant may then make the necessary corrections and resubmit the final plat for approval.

The governing body may withdraw approval of a plat if it determines that information provided by the subdivider, and upon which such decision was based, is inaccurate.

[STAFF NOTES ON PROPOSED CHANGES: Additional wording changes needed to consolidate the review process for all three types of subdivisions and to implement a completeness and sufficiency review for final plat applications. The amendments also eliminate vague language on making changes considered to be "improvements" and instead clearly state the allowance for changes needed comply with the preliminary approval conditions (e.g., adding or expanding a drainage easement required by DEQ review).]

CHAPTER IV: PROCEDURES FOR MINOR SUBDIVISIONS

Delete Chapter IV in its entirety and retain title with the date of repeal.

[STAFF NOTES ON PROPOSED CHANGES: Chapter IV contains the provisions for reviews of minor subdivisions and subsequent minor subdivisions. It contains about 25 pages of duplicated text from Chapter III. The text that differs for minor and subsequent minor subdivisions has been moved to Chapter III. The chapter title will be retained to notify future readers of its repeal and to avoid the need to renumber the subsequent chapters.]

CHAPTER XI: GENERAL DESIGN AND IMPROVEMENT STANDARDS

Page XI-1, Lewis and Clark County 2013 Subdivision Regulations

A. Introduction

1. All subdivisions must be designed and developed by the Applicant to provide satisfactory building sites that properly relate to topography and must avoid or mitigate any significant adverse impacts on:
 - agriculture; ~~and~~
 - agricultural water users; ~~or agricultural water;~~
 - local services ~~and provision of local services;~~
 - natural environment;
 - wildlife;
 - wildlife habitat; and
 - public health, safety and general welfare.
2. All subdivision applications must also be in compliance with:
 - survey requirements of the Montana Subdivision and Platting Act;
 - these local Subdivision Regulations; and,
 - the review procedures contained in these Subdivision Regulations.
3. All subdivisions must provide easements within and to the subdivision for the location and installation of any planned utilities.
4. All subdivisions must provide legal and physical access to each parcel within the subdivision with notation of that access on the plat and any instrument of transfer concerning each parcel.
5. All subdivisions approved by the governing body shall comply with the provisions of this chapter, except where granted a variance pursuant to Chapter II, section B.
6. Certain types of subdivisions may have additional or alternative development standards set forth in these regulations. For procedures for subdivisions created by rent, lease, or other conveyance refer to Chapter VI. For planned unit developments refer to Chapter IX., and for condominiums and townhouses refer to Chapter X.

[STAFF NOTES ON PROPOSED CHANGES: Wording changes are proposed to make this subsection consistent with the Montana Subdivision & Platting Act and Section III. B. 4. Numbering added to facilitate reading and citations.]

H. Streets and Roads

1. Roads located within a subdivision, shall meet appropriate County design specifications in ~~Appendix J~~ the Lewis and Clark County Public Works Manual. The appropriate road classification standard shall be determined through a traffic impact study by a professional engineer registered in the State of Montana (See Appendix B).

[STAFF NOTES ON PROPOSED CHANGES: The standards for design and construction of roads have been relocated to the County Public Works Manual. Appendix J of the Subdivision Regulations, which currently contains similar road standards will be repealed.]

4. Whenever physically feasible, all roads shall connect to other roads within the neighborhood or development and connect to existing or projected through streets and provide access to adjacent parcels, as part of an interconnected road network, outside of the development.

[STAFF NOTES ON PROPOSED CHANGES: The current practice is to require extension of roads to project boundaries for interconnection of street existing and future streets. The added language clarifies that street connections are required even if there is no specific development plan for adjacent properties at the time of subdivision application.]

7. In all subdivisions, property owners shall sign a waiver of right to protest joining a rural improvement district. A waiver of the right to protest may not be valid for a time period longer than twenty (20) years after the date that the final subdivision plat is filed with the County Clerk and Recorder. Where a rural improvement district exists, the subdivider shall enter into said district.

[STAFF NOTES ON PROPOSED CHANGES: Formatting change for consistency.]

8. Local roads and residential driveways shall not have direct access onto roads that are functionally classified as state highways, arterial roads or major collectors. Where there is no other reasonable alternative to a local road or residential driveway accessing a state highway, arterial road or major collector, an approach permit must be obtained from the appropriate agency (Montana Department of Transportation, City of East Helena, City of Helena, Lewis and Clark County) before approval can be granted for the proposed road or driveway.

~~When a proposed subdivision abuts a state highway and an arterial road or major collector, and there is no other reasonable alternative to a local road or driveway accessing a state highway, arterial road or major collector, approval shall be granted only for access onto the arterial road or major collector when an approach permit from the appropriate agency is obtained.~~

[STAFF NOTES ON PROPOSED CHANGES: The second paragraph of sub-section 8 is redundant.]

9. Unless designed as part of an integrated road network, or identified as an important traffic corridor, or public health and safety would be enhanced by a through connection, local streets should be designed to discourage through traffic.

[STAFF NOTES ON PROPOSED CHANGES: Correction of a typographical error.]

11. A dead-end street must include a cul-de-sac or hammerhead turnaround ~~constructed in accordance with Appendix J~~ unless the dead-end road is proposed as part of a future road connection pursuant to XI.H.16 and the road connection does not serve as access to any lots in the subdivision.

All aspects of a dead-end street shall meet the design and construction standards of Section 4 of the Lewis and Clark County Public Works Manual.

~~A dead-end street or cul-de-sac shall not be greater than 700 feet in length, unless the existing or proposed road can meet one of the following two exceptions:~~

- ~~a) Maximum of a 1,300-foot cul-de-sac or hammerhead turnaround is permitted if:~~
 - ~~• the topography of the property is classified as level (slope range of 0 to 8.0 percent); and~~
 - ~~• the fuel hazard rating for the property is classified as low per an on-site inspection by a recognized fire or fuel management specialist or as indicated on the Wildland Fuel Hazard Rating Map prepared by the Tri-County Fire Working Group for Broadwater, Jefferson, and Lewis and Clark Counties; and~~
 - ~~• the cul-de-sac or hammerhead turnaround is proposed as part of a future road connection including the extension of a County road easement.~~
- ~~b) Maximum of 1,000-foot cul-de-sac or hammerhead turnaround is permitted if:~~
 - ~~• the topography of the property is classified as rolling (slope range of 8.1 to 15.0 percent); and~~
 - ~~• the fuel hazard rating for the property is classified as low to moderate per an on-site inspection by a recognized fire or fuel management specialist or as indicated on the Wildland Fuel Hazard Rating Map prepared by the Tri-County Fire Working Group for Broadwater, Jefferson, and Lewis and Clark Counties; and~~
 - ~~• the cul-de-sac or hammerhead turnaround is proposed as part of a future road connection including the extension of a County road easement.~~

[STAFF NOTES ON PROPOSED CHANGES: Clarifies when a turnaround is required on street extensions. The Public Works Manual contains the design standards for dead end streets.]

13. Horizontal and vertical alignment of streets shall conform to the requirements of the Lewis and Clark County Public Works Manual. ~~ensure adequate sight distances. When street centerlines deflect more than five degrees, connection shall be made by horizontal curves.~~

[STAFF NOTES ON PROPOSED CHANGES: The Public Works Manual contains the design standards for street curvature.]

14. Intersections shall conform to the requirements of the Lewis and Clark County Public Works Manual. ~~(see Appendix J).~~

[STAFF NOTES ON PROPOSED CHANGES: The Public Works Manual contains the design standards for intersections.]

15. Each major subdivision and subsequent minor subdivision shall provide at least two different ingress-egress vehicular access routes, and provide standard legal and physical access.

The exceptions to the requirement to provide at least two different ingress-egress vehicular access routes would be major subdivisions and subsequent minor subdivisions that meet all of the following criteria:

- access provided by a dead end road ~~cul-de-sac or hammerhead turnaround~~ that is seven hundred (700 ft.) feet or less in length and the subject dead end road ~~cul-de-sac or hammerhead turnaround~~ accesses a local, collector or arterial road that is not classified as a dead end road; and
- does not present an evident threat to public health and safety and will not inhibit evacuation of residents in the event of an emergency.

[STAFF NOTES ON PROPOSED CHANGES: Access is provided by a road, not a turnaround. Formatting change for consistency.]

16. When county road easements are extended to exterior property boundaries within a subdivision for a future road connection as provided in Section XI.H.4, the roadway shall be constructed in accordance with the County Road Standards in the Lewis and Clark County Public Works Manual Appendix J. ~~These easements and roadways shall not exceed the depth of one adjacent lot unless a county road easement is provided for a cul-de-sac or hammerhead turnaround and the cul-de-sac or hammerhead turnaround is constructed in accordance with the County Road Standards in Appendix J.~~

[STAFF NOTES ON PROPOSED CHANGES: Clarifies relationship to subsection requiring road extensions within a subdivision and references Public Work Manual. Requirements for turnarounds are established in other sub-sections.]

18. ~~External and internal access roads constructed to the previous County Road Standards (Peccia Typical Sections No. 1, 2, 3, or 4) are grandfathered and acceptable as standard physical access if they meet all of the following criteria:~~
- ~~• the subject road(s) are certified by an engineer registered in the State of Montana as meeting the original standard. Certification shall include a statement that the road meets the original standard for width, base course, top surfacing, compaction, and drainage. The certification shall include the engineer's stamp; and~~
 - ~~• no upgrade is needed because of increased average daily trips (ADT's) or decreased LOS. If upgrading is required due to these reasons, then the road must meet the County Road Standards (Appendix J).~~
19. ~~Where roads constructed under the previous county roads construction and design standards (Peccia) connect with roads constructed under the current road standards the connection shall integrate the road profiles as seamlessly as possible, including drainage improvements.~~
20. ~~Internal access roads for all major, subsequent minor and first minor subdivisions shall be constructed to the paved standard for local roads. An exemption from the paving requirement for 1-400 ADT local roads is allowed for any subdivision where only residential lots are created and all lots are greater than 2 ½ acres in size.~~

[STAFF NOTES ON PROPOSED CHANGES: Subsections 18, 19, and 20 belong in the Public Works Manual.]

24. 19 No subdivision shall be designed in such a way that prevents or inhibits public access by a gate or other method of obstruction on any road within or accessing the subdivisions.

[STAFF NOTES ON PROPOSED CHANGES: Section renumbered.]

20. Driveways. Any property accessing a county or public road must have an approach permit. The following items shall also be incorporated into design and construction:
- a. All driveway approaches shall conform to the road approach permit requirements of the Lewis and Clark County Public Works Manual.
 - b. Driveway turns shall have a turning radius no less than thirty (30 ft.) feet.

- c. A driveway's traveled way, including bridges and cattle guards, shall be a minimum of twelve (12 ft.) feet in width and have a vertical clearance of at least fourteen and one-half (14.5 ft.) feet over its full width.
- d. Driveway bridges and cattle guards need to meet HS20 load rating standards.
- e. All driveway gates shall be located a minimum of thirty (30 ft.) feet from the public right-of-way and shall open inward. Gate openings shall provide a clear opening of not less than twelve (12 ft.) feet.
- f. Fire department personnel shall have ready access to locking mechanisms, on any gate restricting access on a driveway.
- g. Driveway rights-of-way shall be a minimum of twenty (20 ft.) feet wide to accommodate the traveled way, vegetation modification, and other local requirements.
- h. Driveway grades shall be no greater than eleven (11%) percent.
- i. Every dead-end driveway more than three hundred (300 ft.) feet in length shall be provided with a turnaround at the terminus having a minimum radius of fifty (50 ft.) feet to the center line or a "hammerhead-T" turnaround to provide emergency vehicles with a three-point turnaround ability.
- j. Driveway access shall be located at least fifteen (15 ft.) feet from the closest edge of turnouts and shall not be located on a turnout.
- k. Driveway access shall be at a location that does not conflict with the requirements of XI.F.5, XI.F.6, XI.F.10, and XI.H.10 in these regulations.

[STAFF NOTES ON PROPOSED CHANGES: The driveway standards of Appendix J cannot be relocated to the Public Works Manual as that department has no jurisdiction outside of the public right of way. Standards dealing with approaches from Appendix J have been eliminated as they are covered by the Public Works Manual. Proposed amendments include the elimination of the restriction allowing a single approach per lot.]

Page XI-14 to 15, Lewis and Clark County 2013 Subdivision Regulations

I. Improvements

- 2. All roadway improvements required by the governing body, including pavement, curbs, gutters, sidewalks, driveway approaches and drainage shall be constructed in accordance with the specifications and standards prescribed in these regulations, and the Lewis and Clark County Specifications for County Roads Public Works Manual, using materials approved by the governing body.

[STAFF NOTES ON PROPOSED CHANGES: Reference changed to the Public Works Manual.]

9. ~~As part of the final plat submission, all approach designs (roads and driveways) and approach locations shall be part of the subdivision's engineer-certified roadway and drainage plans.~~
9. The subdivider shall provide a one-year warranty for all improvements required of the subdivision. The warranty must commence at the time the improvements are inspected and are accepted by the governing body.

[STAFF NOTES ON PROPOSED CHANGES: The County does not require the design of all approaches for final plat, just street approaches which are covered in other sections and the Public Works Manual. The County does, however, require a warranty of public improvements in its provisions for Subdivision Improvements Agreements (see Appendix E. Section D.4). Not all improvements and not all subdivisions, however, involve Subdivision Improvement Agreements. The clear policy intent is that all public improvements must be warrantied by the subdivider.]

Page XI-16, Lewis and Clark County 2013 Subdivision Regulations

J. Mailbox Placement and Design

2. On collectors and arterials, mail delivery will occur outside the travel way. Where a turnout is used, it shall comply with the requirements for turnouts found in the Lewis and Clark County Public Works Manual Appendix J. No turnout may be constructed without approval of the managing road authority. Responsibility for maintenance of the turnout shall be of the rural improvement district, if one exists or is required.

[STAFF NOTES ON PROPOSED CHANGES: The standards for design and construction of road turnouts have been relocated to the County Public Works Manual. Appendix J of the Subdivision Regulations, which currently contains similar road standards will be repealed.]

Page XI-16, Lewis and Clark County 2013 Subdivision Regulations

K. Street and Lot Identification

1. Street names and all traffic control signage shall comply with the provisions of the Lewis and Clark County Public Works Manual Appendix G. ~~(Lewis and Clark County Road Naming Regulations).~~
2. ~~Name signs shall be placed at all roadway intersections.~~
3. ~~Whenever possible, name signs shall be placed on the northeast and southwest corners of all intersections. If it is not feasible to utilize the northeast and southwest corners, signs shall be placed so as to be conspicuous to the majority of people.~~
4. ~~All signs must be consistent with the standards in the Manual on Uniform Traffic Control Devices.~~
5. ~~Signs shall have white reflective letters on a dark green background.~~

- ~~6. Name signs shall be mounted not less than 5 feet nor more than 7 feet above the roadway.~~
- ~~7. The developer shall apply for address assignments for lots within the subdivision. Application is made to the County Address Coordinator.~~
- ~~8. In rural subdivisions where topography, vegetation, lot size, mailbox location, and/or other circumstances prevent clear visibility or accurate identification of homesites from access roads, the subdivider shall install address identification plaques. The plaques shall conform to the specifications for street identification signs, except for sign width.~~

[STAFF NOTES ON PROPOSED CHANGES: The standards for street naming and road signage have been relocated to the County Public Works Manual. Appendix G of the Subdivision Regulations, which currently contains similar road naming conventions and signage standards will be repealed.]

Page XI-20, Lewis and Clark County 2013 Subdivision Regulations

L. Grading, Drainage, and Erosion Control

9. Culverts or bridges of adequate size shall be provided and installed by the subdivider where drainage channels intersect any street right-of-way or easement. Minimum culvert sizes shall be eighteen (18) inches in diameter for major collectors and fifteen (15) inches in diameter for other road categories and driveways unless otherwise specified in the Lewis and Clark County Public Works Manual (see Appendix J). All culverts shall extend at least across the entire width of the base of the fill; the amount of backfill to be placed over the culvert and the culvert's capacity shall be determined by a qualified engineer. This shall include arrangements for driveway culverts. The cost, installation, and maintenance of driveway culverts shall be the responsibility of each individual lot owner. This responsibility shall be clearly stated in the covenants.

[STAFF NOTES ON PROPOSED CHANGES: Formatting changes for consistency. Reference change to Public Works Manual.]

Page XI-26, Lewis and Clark County 2013 Subdivision Regulations

Q. Utility Easements

3. Utility easements shall be twenty (20 ft.) feet wide unless otherwise specified by a utility company or the governing body. This may be accomplished by ten (10 ft.) foot dedications along all lot lines where they can be combined for a total of a twenty (20 ft.) feet easement along lot lines. Ten (10) foot easements along front lot lines are adequate if combined with street right-of-way. Unless otherwise specified by a utility company or the governing body, utility easements shall be designated as follows:
 - e. In addition to showing the location of the utility easement on the plat with dashed lines, the following statement shall be on the final plat:

"The undersigned hereby grants the following unto every person, firm or corporation, whether public or private, providing or offering to provide telephone, telegraph, electric power, gas, cable television, water or sewer service to the public: The right to the joint use of (and ingress and egress to and from) an easement for the construction, maintenance, repair and removal of their lines and other facilities, in and under each area designated on this plat as "Utility Easement," to have and to hold forever." No permanent structures may be placed on the easement. Features such as fencing or landscaping are subject to be torn up for maintenance needs.

- f. No permanent structures may be placed on the utility easements. Features such as fencing or landscaping are subject to be torn up removal for maintenance needs.

[STAFF NOTES ON PROPOSED CHANGES: Formatting changes to clearly identify regulation limiting intrusion into utility easement.]

Page XI-29, XI-30, Lewis and Clark County 2013 Subdivision Regulations

R. Park Land, including Open Space and Conservation Areas

8. Parkland ownership status must be specified at the time of preliminary plat approval, and must be shown on the final plat, and conveyed to the County by means of a warranty deed(s) from the property owner(s), acceptable to the governing body, recorded with the Clerk and Recorder with the filing of the final plat.
12. Subject to the approval of the governing body and acceptance by the school district trustees having jurisdiction, a subdivider may dedicate land as required by Chapter XI.R.1 to a ~~S~~school district if the land is adequate to be used for school facilities or buildings. The land is to be conveyed to the school district by means of a warranty deed(s) from the property owner(s), acceptable to the governing body and the school district trustees having jurisdiction, recorded with the Clerk and Recorder with the filing of final plat.

[STAFF NOTES ON PROPOSED CHANGES: County Legal has requested clarification as to the form of deed required for park land dedication.]

Page XI-31 TO XI-33, Lewis and Clark County 2013 Subdivision Regulations

W. Waterbody Setbacks and Buffer Areas

2. Applicability and Water Course Descriptions

Setbacks and buffers are horizontal distances from the ordinary high water mark, and are designated as follows (see Appendix L for a detailed listing of water bodies under each of the classifications):

<u>Water Course Designation</u>	<u>Setback</u>	<u>Buffer</u>
Type I	250 feet	100 feet
Type II	200 feet	75 feet
Type III	100 feet	50 feet
Type IV	50 feet	30 feet <u>no buffer</u>

For the purposes of this section, riparian areas subject to these regulations shall include the following:

- d. Parcels within 50 feet of type IV water-courses, which for these purposes are considered the Helena Valley Irrigation District canals, Prickly Pear Water Users canals, and ditches or canals specifically designed to carry storm-water or surface water.
 - e. Large, well-defined ephemeral drainages within subdivisions shall be protected with non-disturbance easements and 50-foot setbacks in order to provide for storm-water retention and wildlife habitat.
 - f. All other water-courses, such as swales and ephemeral drainages, shall be addressed in the storm-water drainage plans for each subdivision proposal per the requirements of the Subdivision Regulations. Consulting engineers should work closely with County Planning Staff to ensure that any improvements within a subdivision or alteration of any drainage within a subdivision will provide for adequate storm-retention on-site and any for necessary setbacks. Setbacks for these drainages shall be defined by the calculated volume of storm-water in the drainage and the depth of flow based upon a 100-year storm event. An engineer registered in the State of Montana shall calculate the volume of storm-water.
- ~~Large, well-defined ephemeral drainages within subdivisions should be protected with non-disturbance easements and setbacks in order to provide for storm-water retention and wildlife habitat.~~
- e. ~~These requirements apply throughout Lewis and Clark County. However, a special zoning district may adopt regulations that exceed these requirements.~~

[STAFF NOTES ON PROPOSED CHANGES: Proposed changes clarify current policies on water body and drainage system setbacks and buffers.]

APPENDIX C(1): PART 1: INFORMATION REQUIRED FOR ENVIRONMENTAL ASSESSMENT UNDER THE SUBDIVISION AND PLATTING ACT

Page C(1)-2, Lewis and Clark County 2013 Subdivision Regulations

B. Exemptions

The following subdivisions shall not be required to submit an environmental assessment:

1. A first minor subdivision from a tract of record (76-3-609(2), MCA).
2. ~~A subdivision that satisfies all of the following criteria (76-3-616(2), MCA):~~
 - a. ~~The proposed subdivision is entirely within an area inside or adjacent to an incorporated city or town where the governing body has adopted a growth policy that includes the provisions of 76-1-601(4)(c), MCA;~~
 - b. ~~The proposed subdivision is entirely within an area subject to zoning adopted pursuant to 76-2-203 or 76-2-304, MCA that avoids, significantly reduces, or mitigates adverse impacts identified in a growth policy that includes the provisions of 76-1-601(4)(c), MCA; and~~
 - c. ~~The subdivision proposal includes a description, using maps and text, of future public facilities and services, that are necessary to efficiently serve the projected development.~~

[STAFF NOTES ON PROPOSED CHANGES: Steps needed to qualify for this exemption have never been completed. Although the 2015 Helena Valley Area Plan contains recommendations to move in this growth management direction, until an infrastructure plan for the Urban Growth Area is completed and zoning is adopted that mitigates impacts on resources and services, this provision has no effect on subdivisions. At the point that the required programs are in place, a new provision can be inserted in this reserved section.]

APPENDIX D: FINAL PLAT SUBMISSIONS

Page D-8, Lewis and Clark County 2013 Subdivision Regulations

- E.** If applicable, the following documents shall accompany the final plat when submitted for review to the Community Development and Planning Department for purposes of approval by the governing body and shall be filed with the plat as specified by the clerk and recorder, and the recording or filing number(s) for each document may be written on the plat by the clerk and recorder:
15. A warranty deed(s) from the property owner(s), acceptable to the governing body, and if applicable, the school district trustees having jurisdiction, that grants, bargains, sells, conveys, and confirms unto Lewis and Clark County or a school district, land(s) dedicated to the County or school district pursuant to Section 76-3-621, MCA.

[STAFF NOTES ON PROPOSED CHANGES: County Legal staff has requested that the form of deed for park land be specified.]

APPENDIX E: SUBDIVISION IMPROVEMENTS GUARANTEES

Page E-1, Lewis and Clark County 2013 Subdivision Regulations

A. Improvement Standards:

The BOCC shall specify the improvements that shall be completed after the final plat is approved. The BOCC shall specify that the improvements must be constructed to standards included in these Regulations and the other standards the BOCC may adopt. Those improvements may include all improvements that are not needed for public safety and occupancy of buildings (e.g., final paving, chip sealing, erosion controls). ~~streets, roads, bridges, culverts, curbs, gutters, drainage water systems, sewage systems, sidewalks, walkways, street lights, street signs, road right-of-way clearings, solid waste facilities, park and recreational facilities, utilities and other improvements as required by the BOCC.~~

[STAFF NOTES ON PROPOSED CHANGES: Proposed amendments establish the Commission's policy that performance guarantees for public improvements cannot include health and safety improvements needed for construction and occupancy of buildings on lots in a subdivision.]

APPENDIX G: LEWIS AND CLARK COUNTY ROAD NAMING, ROAD SIGN IDENTIFICATION AND INSTALLATION CONVENTIONS

Page G-1 to G-6, Lewis and Clark County 2013 Subdivision Regulations

Delete Appendix G in its entirety and retain title with the date of repeal and with a statement referring readers to the Public Works Manual.

[STAFF NOTES ON PROPOSED CHANGES: Appendix G contains the road naming and signage standards that have been moved to the Public Works Manual. The chapter title will be retained to notify future readers of its repeal and to avoid the need to renumber the subsequent chapters.]

APPENDIX H: LEWIS AND CLARK COUNTY ADDRESSING CONVENTIONS

Page H-1 to H-4, Lewis and Clark County 2013 Subdivision Regulations

Delete Appendix H in its entirety and retain title with the date of repeal and with a statement referring readers to the Public Works Manual.

[STAFF NOTES ON PROPOSED CHANGES: Appendix H contains the addressing conventions that have been moved to the Public Works Manual. The chapter title will be retained to notify future readers of its repeal and to avoid the need to renumber the subsequent chapters.]

APPENDIX I: CRITERIA FOR REVIEW OF CLAIMED EXEMPTIONS FROM PROVISIONS OF SUBDIVISION AND PLATTING ACT

Page I-1, Lewis and Clark County 2013 Subdivision Regulations

SECTION A. APPLICATION AND INITIAL REVIEW

2. A Review Committee, appointed by the Board of County Commissioners (Board) and consisting of the Clerk and Recorder, Planning Director, and County Attorney (or their designees), shall review evidence submitted by the applicant on the basis of the criteria set forth in these regulations and in other pertinent law. Within ~~ten (10)~~ twenty (20) working days after submission of the documents, the Committee shall make written findings and shall notify the applicant in writing of the Committee's determination.

[STAFF NOTES ON PROPOSED CHANGES: County Legal has advised that written findings and conclusions are required for all decisions of the Survey Review Committee. To properly process applications and prepare required written decisions, more time is needed.]

APPENDIX J: LEWIS & CLARK COUNTY ROAD STANDARDS

Page J-1 to J-18, Lewis and Clark County 2013 Subdivision Regulations

Delete Appendix J in its entirety and retain title with the date of repeal and with a statement referring readers to the Public Works Manual.

[STAFF NOTES ON PROPOSED CHANGES: Appendix J contains the County Road standards that have been moved to the Public Works Manual. The standards for driveways outside of the public right of way have been moved to Section XI. H. 20 to the Subdivision Regulations. The chapter title will be retained to notify future readers of its repeal and to avoid the need to renumber the subsequent chapters.]

APPENDIX K: FIRE PROTECTION STANDARDS

Page K-11 to K-12, Lewis and Clark County 2013 Subdivision Regulations

18-4.6 Off-Site Water Supply System

~~When proposing to utilize an existing off-site water supply system, the applicant shall submit with the subdivision application, at the Applicant's expense, current performance data for the water supply system based on current field measures, certified by a professional engineer licensed in the State of Montana. If available, the applicant shall submit, with the subdivision application, as built specifications and drawings to the FPAHJ and County Community Development and Planning Department.~~

18-4.7 Fire Protection Authority Having Jurisdiction (FPAHJ) Approval of Water Supplies for Fire Protection

The subdivider shall provide a certification from an engineer, licensed in the State of Montana, stating that any existing, new or improved fire protection water supplies serving the subdivision comply with the requirements of preliminary approval. The subdivider shall also submit a written verification from the Fire Protection Authority Having Jurisdiction (FPAHJ) stating that the FPAHJ has inspected and tested the fire protection water supplies serving the subdivision. The FPAHJ's inspection and testing must occur after the subdivider submits to the FPAHJ a certification from an engineer, licensed in the State of Montana and within six (6) months of the date of final plat submittal stating that any existing, new or improved fire protection water supplies serving the subdivision comply with the requirements of preliminary approval.

[STAFF NOTES ON PROPOSED CHANGES: Proposed changes consolidate certification and testing requirements for fire protection water supplies and clarify the timing of required testing.]

CHAPTERS I-XI AND ALL APPENDICIES FORMATTING OF CITATIONS

Modify all citations to the State statutes in the Subdivision Regulations to the following format:

Section 76-3-601(2)(c), MCA.

The word “Section (or “Sections”, if citing multiple statutes) to start the citation. Then it is followed by the title-chapter-part, then any subsections that follow cited in a string of parentheses with no spaces between them, and the citation to end with a comma and MCA.

[STAFF NOTES ON PROPOSED CHANGES: The current Subdivision Regulations are inconsistent in citations to the State statutes. County Legal staff has recommended reformatting to achieve consistency.]